



Statement of The Insurance Association of Connecticut

Labor and Public Employees Committee

March 8, 2022

SB 321 - An Act Expanding Workers' Compensation Coverage for Post-Traumatic Stress

Injuries for All Employees

I am Eric George, President of the Insurance Association of Connecticut (IAC). The IAC is a state-based trade association that represents Connecticut's property and casualty insurance industry and Connecticut's life insurance and financial security industries. Among other insurance-related products, IAC members offer (i) home insurance, (ii) auto insurance, (iii) workers' compensation insurance, (iv) liability insurance, (v) group benefits, (vi) life insurance, (vii) annuities, (viii) retirement plans, (ix) long-term care insurance, (x) disability income insurance, and (xi) reinsurance.

Thank you for the opportunity to offer comment on SB 321 and the issue of expansion of workers' compensation benefits for PTSD claims that stem from a mental stimulus ("mental-mental" claims) to all employees in the entire State of Connecticut. Respectfully, the IAC opposes SB 321 and asks this committee to reject it.

The IAC recognizes the significant contributions of the state's overall workforce and is highly sympathetic to their needs; however, we caution this committee on the expansion of coverage for PTSD. These claims are often subjective in nature and complex, and as such they are difficult to defend and costly to administer.

In recognizing this issue, the Workers' Compensation Act Reforms of 1993 properly placed limitations on coverage, limiting stress-related claims - including PTSD, to instances where the mental injury is caused by a physical injury or occupational disease.¹

Since that time, Connecticut has made tremendous strides in improving the competitiveness of the workers' compensation market and safety in the workplace. For the past nine consecutive years, workers' compensation insurance rates have steadily decreased, as have the number of workplace injuries and claims filed.² As Governor Lamont recently noted, while this "decline in workers' compensation insurance premiums is good news for businesses, enabling employers to invest more money back into their companies and employees, and providing a boost to our economy...[i]t's even better news for workers, because the decrease reflects the fact that workplaces are getting safer and safer."

Connecticut's Department of Insurance Commissioner, Andrew Mais, has also stressed that the decreasing costs of the workers' compensation system in our state is a positive development, saying that "[t]he loss costs and assigned risk rates have steadily gone down over the last eight years, helping businesses better control workers' compensation insurance costs –

¹ <https://www.cga.ct.gov/ps93/Act/pa/1993PA-00228-R00HB-07172-PA.htm>

² <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2022/01-2022/Governor-Lamont-Announces-Workers-Compensation-Rates-Decrease>

one of their critical operating expenses... . This reflects an ongoing decrease in the number of workplace injuries and claims filed."³

It is axiomatic that expansion of coverage will not only cause an increase in risk and premiums for policyholders, but also prove more costly for local governments and those who are self-insured. With many businesses still struggling to recover from the impact of the pandemic, now is not the time to increase operating expenses.

While we recognize the need to properly address mental health issues in the workplace, it is also important to recognize that mental-mental claims are both complex and subjective in nature, and thus subject to abuse. In fact, Dr. Dan G. Blazer, a Duke University psychiatrist who has worked with the military on PTSD issues has stated that PTSD is "among the easiest (psychiatric) conditions to feign."⁴

Assessing the credibility of these mental-mental claims can be challenging due to the fact that objective tests, such as x-rays and MRIs that are used to evaluate physical injuries, are unavailable. The lack of scientific instruments to objectively evaluate these claims also makes it difficult to distinguish the legitimacy of a claim that is primarily work related from one that is not.⁵ Mental health problems can affect any employee at any time, and the reasons they develop are varied. Genetics, adverse childhood experiences, and environmental stimuli may all be causes. For these reasons, medical evaluations and opinions relating to the cause of these claims are often involved, time consuming and costly.

³ <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2022/01-2022/Governor-Lamont-Announces-Workers-Compensation-Rates-Decrease>

⁴ http://www.nbcnews.com/id/36852985/ns/health-mental_health/t/tide-new-ptsd-cases-raises-fears-fraud/#.XdYNkTJKi3U

⁵ <https://journals.sagepub.com/doi/pdf/10.1177/216507999404201007>

The IAC is aware of the challenges involved with the investigation of mental health claims, the associated cost of defense, and tremendous exposure involved. Discovery is often more difficult, medical exams and opinions are often more costly, and medical opinions are less reliable because they are based on the subjective complaints of the claimant.

With the passage of Paid Family Medical Leave (Public Act No. 19-25), which provides eligible employees with up to twelve weeks of paid leave, and the expansion of workers' compensation benefits for PTSD for some classes of workers in recent years, we believe more time is needed to properly evaluate the impact of the recent expansion and whether a need for further expansion of coverage exists.

Though reliable statistics on mental-mental claims and costs are not readily available through the National Council on Compensation Insurance (NCCI)⁶, this information will likely soon become available through other sources.

By way of example, data pertaining to PTSD claims was recently published by the League of Minnesota Cities Insurance Trust (Trust)⁷, a self-insured membership cooperative that was created by Minnesota cities for Minnesota cities. Its data shows that PTSD claims have had a significant impact on workers' compensation insurance premiums since PTSD claims became compensable in 2013. According to its website, "[m]embers with renewals on or after Jan. 1, 2020, will see a rate increase of approximately 9%...to fund costs for claims related to post-

⁶ According to NCCI, this is due to both the scarcity of PTSD data in general, and the data reporting requirements for workers' compensation (WC). In particular, first responders—who likely have a greater exposure to events leading to PTSD—are generally employees of state municipalities and political subdivisions. These employers are often self-insured and not required to report data to the NCCI. https://www.ncci.com/Articles/Pages/II_Insights-PTSD-Injuries.aspx

⁷ The League of Minnesota Cities (League) is a membership organization of 800 member cities dedicated to promoting excellence in local government. Participation in the Trust is generally open to any city that is a member of the League.

traumatic stress disorder (PTSD).” It further notes that “since PTSD became compensable in 2013, it is projected that PTSD will account for approximately \$9.4 million of the \$52 million in total workers’ compensation claims the Trust expects to incur in the coming year.”⁸ Due to the significant impact PTSD claims may have on the workers’ compensation system, we strongly suggest that consideration is given to the experience of other jurisdictions before further expanding coverage in Connecticut.

Thank you for the opportunity to present the IAC’s comments and please reject SB 321.

⁸ <https://www.lmc.org/page/1/PremiumRates.jsp?ssl=true>